

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

MARIA L. SANCHEZ
Plaintiff

VS.

WAL-MART STORES TEXAS LLC
Defendant

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CAUSE NO.: 7:21-CV-153

DEMAND TRIAL BY JURY

**DEFENDANT WAL-MART STORES TEXAS L.L.C.'S NOTICE OF REMOVAL
UNDER 28 U.S.C. § 1441 (DIVERSITY)**

TO THE HONORABLE JUDGE OF THIS COURT:

NOW COMES WAL-MART STORES TEXAS L.L.C., Defendant in the above styled and numbered cause and removes the above action from the County Court At Law No. 5, Hidalgo County, Texas to the United States District Court for the Southern District of Texas, McAllen Division and files this its Notice of Removal pursuant to 28 U.S.C. § 1441 and 1446 and pursuant to the requirements of 28 U.S.C. § 1332.

1. On March 15, 2021, an action was commenced against Defendant **WAL-MART STORES TEXAS L.L.C.** in the County Court At Law No. 5, Hidalgo County, Texas styled *Maria L. Sanchez vs. Wal-Mart Stores Texas L.L.C.*; Cause No. CL-21-1226-E. A copy of that suit is attached hereto as Exhibit 1.
2. **WAL-MART STORES TEXAS L.L.C.** was served on March 25, 2021, and timely filed an Answer with the State Court. A copy of the citation is attached hereto as Exhibit 2. In accordance with Local Rule 81, the following constitutes all of the executed process, pleadings, and orders served upon Plaintiff and Defendant in this action:

1. Plaintiff's Original Petition;

2. Copy of Citation of Defendant Wal-Mart Inc.;
3. Docket Sheet;
4. Defendant's Original Answer;
5. Defendant's Jury Demand.
6. Defendant's Notice of Removal (State Court)

In addition, Defendant includes a copy of the docket sheet of the state court matter, a *copy of which is attached hereto as Exhibit 3.*

3. This suit arises out of an incident that occurred on October 7, 2019, at the Wal-Mart store located at 900 N. Salinas Blvd. in Donna, Texas. Plaintiff alleges that she was injured while using an electric cart that malfunctioned allegedly due to improper maintenance. The claims made include theories of negligence, and premises liability. Specifically, Plaintiff alleges that Plaintiff, at all material times, was an invitee on the premises of Defendant **WAL-MART STORES TEXAS L.L.C.** at the time of her injuries and damages. Plaintiff alleges that she sustained injuries while using an electric cart that malfunctioned. Plaintiff alleges that there was a condition on the premises that posed an unreasonable risk of harm; that Defendant knew or reasonably should have known of the danger; that Defendant failed to adequately warn the Plaintiff of said condition; and that Defendant failed to make said condition reasonably safe. Plaintiff alleges that Defendant was the sole proximate cause or a proximate cause of the incident and the injuries and damages suffered by the Plaintiff.
4. In Section III "Jurisdiction and Venue" of Plaintiff's Original Petition, Plaintiff pleads that she is seeking monetary relief from Defendant of less than \$74,000.00. However, in Section VII "Prayer", Plaintiff seeks to obtain monetary relief of less than \$250,000.00.

As such, **WAL-MART STORES TEXAS L.L.C.**, submits that the amount in controversy is in excess of \$75,000.00 and removal is appropriate pursuant to 28 U.S. § 1441.

5. In her Original Petition, Plaintiff pleads that she is a resident of Hidalgo County, Texas, as such, a citizen of the State of Texas.

Defendant **WAL-MART STORES TEXAS L.L.C.**, was, at the time this suit was filed, and still is a Delaware limited liability company organized and existing under the laws of the State of Delaware. Its principal place of business is 702 SW 8th Street, Bentonville, Arkansas, 72716. The sole member of Defendant **WAL-MART STORES TEXAS L.L.C.**, is Wal-Mart Real Estate Business Trust. The sole member's principal office address is 702 SW 8th Street, Bentonville, Arkansas, 72716. Eric Zorn is the Trustee of Wal-Mart Real Estate Business Trust, and has residences in Bentonville, Arkansas, and San Diego, California, and thus, is not a citizen of the state of Texas.

6. This case is a civil action of which this court has diversity jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court pursuant to 28 U.S.C. § 1441 and 1446. This is a civil action in which Plaintiff's state citizenship, in her pleadings, is different from that of the Defendant **WAL-MART STORES TEXAS L.L.C.** Thus, there is complete diversity between the true parties in interest. The amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

7. Copy of the Notice of Removal filed in the state court is *attached hereto as Exhibit 6*.
8. Copies of all pleadings, process, orders and other filings in the state court are attached to this notice as required by 28 U.S.C. § 1446.
9. Venue is proper in this district under 28 U.S.C. § 1441 because the state court where the suit has been pending is located in this district.
10. Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.
11. Defendant demanded a jury in the state court suit.
12. For the foregoing reasons, Defendant **WAL-MART STORES TEXAS L.L.C.** asks the Court to remove the suit to The United States District Court, Southern District of Texas, McAllen Division.

Respectfully Submitted,

**THORNTON, BIECHLIN,
REYNOLDS & GUERRA, L.C.**
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BY: /s/ Rafael Garcia, Jr.
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WAL-MART STORES TEXAS L.L.C.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on all parties, via e-mail. pursuant to Texas Rules of Civil Procedure, on this the 20th day of April 2021.

Via Email: *mlperezattorney@gmail.com*

Martin L. Perez

LAW OFFICES OF MARIO DAVILA

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Attorneys for PLAINTIFF

/s/ Rafael Garcia, Jr.

RAFAEL GARCIA, JR.